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Agency Space Shuttle Artifact Working Group

White Paper

Transfer or Donation of Shuttle Program Hardware to Eligible Recipients

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Logistics Management Division, HQ LMD
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**White Paper
On
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To Eligible Recipients**

Background

In the December 2003 study titled “GSA Federal Asset Sales Personal Property Utilization and Donation,” the General Services Administration (GSA) wrote that of Federal Government assets reported as excess, only nine percent were ever transferred to another agency for reuse and only five percent were donated through state agencies to eligible recipients. The paper reported a Government-wide 38 percent drop in use of donation for property disposition since 2000. It endorsed the use of “wants lists” as a way to increase efficiency in the use and donation process for intra- and inter-agency transfers. The paper emphasized the Federal Government’s underused potential for “social benefits through the donation of assets to state and local governments and non-profit organizations.”

This White Paper outlines the transfer and donation processes and issues associated with the retirement of the Space Shuttle Program (SSP) and disposition of its property inventory.

Property not transferring to the Constellation Program at the end of the SSP will be offered to Agency technical functions for reuse; then to NASA non-technical organizations for use at NASA visitor centers and the National Air and Space Museum. When NASA determines it has no further use for the property, it will be offered through GSA simultaneously to other Federal agencies and as described below to the State Agency for Surplus Property (SASP).

Under a signed Memorandum of Agreement (MOA) between NASA and the Smithsonian, if an item is desired by NASM, the museum may request it for the National Collection. Under this MOA, a direct transfer of excess personal property not yet reported to GSA can be done provided the total acquisition cost of the excess property does not exceed \$10,000 per line item. If the excess personal property exceeds the \$10,000 per line item limitation, approval is required from the appropriate regional GSA Personal Property Management office.

Except for transferring items below the \$10,000 threshold, NASA generally does not have the authority to directly transfer its property to other Federal Government agencies. The GSA has been given statutory authority for inter-agency transfers above \$10,000, donations and sales. Some exceptions, such as per the Stevenson Wydler Act and Federal Computer Donation Act, are discussed below.

Once an item determined to be excess to NASA's needs is offered to GSA, GSA may either transfer the item to another requesting Federal agency or offer it as a donation to an eligible non-profit organization through a State Agency for Surplus Property (SASP).

In the cases of both direct transfers and donations, the recipient does not pay market value of the item, only shipping and other cost associated with the transfer plus a GSA service fee. If a Shuttle item is not requested by an authorized organization for direct transfer or donation, GSA will attempt to sell it as an item or as scrap for its material value.

The GSA was established by the Federal Property and Administrative Services Act of 1949 (FPAS). The purpose of the Property Act was to simplify the procurement, use, and the disposal of Government property and to assure that public property is fully used for public purposes, prior to its sale or disposal. The Property Act assigns the GSA Administrator the responsibility for the supervision and direction over the disposition of excess and surplus Federal property. The Space Act also provides disposition instructions, requiring NASA to disposition property according to FPAS. Specific details of GSA's support to NASA, including reimbursable rates for Shuttle excess hardware, and NASA's responsibilities to GSA are outlined in an MOA, signed between GSA Assistant Commissioner Joseph Jeu and NASA Assistant Administrator Olga Dominguez, dated February 20, 2008.

NPR 4310.1, "Identification and Disposition of NASA Artifacts," provides procedures and guidance for identifying, reporting, transferring or disposing of items declared as artifacts. It states that the Center Property Disposal Officers, working with their respective Public Affairs offices, will assist program and project managers and Center Directors to determine which items qualify as artifacts. Artifacts are not excluded from being available for donation during GSA's screening process. In fact, NASA and GSA have coordinated to develop a shuttle potential artifact pre-screening automated process similar to GSAXcess.

It is the intent of the Logistic Management Division (LMD), HQ Office of Institutions and Management, to adhere to the existing property disposal and artifact management processes until SSP-specific guidance and processes are in place. NASA senior management has agreed to a two-stage, internal/external prescreening process to expedite SSP hardware disposition. SSP personal property disposal will run parallel to the current property disposal process. Federal requesters, non-profit museums, eligible SWA academic organizations and other qualified groups will simultaneously review Shuttle potential artifacts and requests will be evaluated against a prioritized set of criteria to resolve conflicts. A synopsis of both processes is provided in the Infrastructure Transition Implementation Plan.

As Shuttle property transitions, all parties should be advised that conversion of Federal Government (public) property to private use without authority is prohibited by the US Criminal Code, 18USC641. The only existing legal authority for conversion to private use is through the sale program authorized under the Federal Property and Administrative

Services Act. This includes conversion to private contractors, collectors, or museums. Property may not be loaned to private contractors, individuals, collectors or museums unless the loan satisfies a NASA programmatic requirement.

Study Request

This study was requested by the HQ Office of Infrastructure (OI) iTransition Working Group in response to WR-03, “Direct Donation to Eligible Recipients.”

Applicable Regulations

- Federal Electronic Equipment Donation Act of 2007 (HR 752 IH)
- Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710i)
- NPR 4310.1, “Identification and Disposition of NASA Artifacts”
- Section 503, Title 40, SU Code pertaining to exchange sales
- US Criminal Code, 18USC641
- NASA/GSA MOA, February 19, 2008
- Federal Management Regulation (FMR) 102-37 - Donation of Surplus Personal Property
- FPMR 101-48 - Utilization, Donation, or Disposal of Abandoned and Forfeited Personal Property
- The Federal Property and Administration Services Act of 1949, chapter 288, 63 stat. 377
- Executive Order (EO) 12999 of April 17, 1996, "Educational Technology: Ensuring Opportunity for All Children in the Next Century."

Who can qualify for a direct transfer?

To be consistent with the GSA terminology, the term “direct transfer” refers to the disposition of property within NASA; to other Federal agencies; or to qualified schools and non-profit organizations under the Stevenson-Wydler Act. “Donation” refers to disposition of property through GSA to qualified non-Federal organizations, generally through SASP offices.

For those limited items that qualify for direct transfer as a gift under the NASA’s interpretation of Stevenson-Wydler Act program, all educational institutions (public, private, or parochial) that intend to use the NASA excess research equipment for the conduct of technical and scientific education and research activities are generally eligible including pre-kindergarten through 12th grade schools and higher education universities and colleges. Museums are considered institutes of informal education and learning. Currently, NASA’s Stevenson-Wydler Act program does not include any nonprofit institutions that are not educational institutions.

When a direct transfer is authorized, NASA attempts to give preference to schools located in Federal enterprise communities and empowerment zones established in the Omnibus Reconciliation Act of 1993, Pub. Law 103-66. NASA partnership schools or others with a formal, prior relationship with NASA may receive preference. Additionally,

NASA attempts to provide unique, one-of-a-kind property to the appropriate educational institution level that would appear to derive the most benefit from the property.

Can Scouts groups and Little League teams qualify for direct transfers or donations? In short: no. As mentioned earlier, NASA's program interpretation of the Stevenson-Wydler Act does not include property transfers to any nonprofit organization that is not primarily an educational institution. Furthermore, with the exception of some DoD hardware, current law prohibits eligibility of these institutions for donation.

Stevenson-Wydler Act considerations

NASA assists in national education goals by the transfer of NASA-owned excess research equipment to educational organizations and nonprofit institutions for the conduct of technical and scientific education and research activities. NASA PDO's are responsible for equally promoting both the Property Act donation programs via GSA and State Agencies for Surplus Property, as well as direct transfers of NASA excess research equipment to eligible nonprofit educational organizations under Stevenson Wydler.

The Stevenson-Wydler Act specifies that the head of any Federal "agency or department" may give as a gift excess research equipment to an "educational organization or non-profit institution" for education and research activities.

Per NASA interpretation, direct transfers as a gift under the Stevenson-Wydler Act are limited to eight Federal supply classification groups (FSCGs) AND Shuttle thermal protection tiles. These groups include:

- Excess pumps and compressors (Federal Supply Classification Group 43)
- Valves (Federal Supply Classification Group 48)
- Communication, detection, and coherent radiation equipment (Federal Supply Classification Group 58)
- electrical and electronic equipment components (Federal Supply Classification Group 59)
- Medical, Dental, and Veterinary Equipment and Supplies (Federal Supply Classification Group 65)
- Instruments and Laboratory Equipment (Federal Supply Classification Group 66)
- Photographic Equipment (Federal Supply Classification Group 67)
- General purpose Automatic Data Processing Equipment (computers) and software, supplies, and support equipment (Federal Supply Classification Group 70) suitable for the purposes and use as stated in the Stevenson Wydler Act.

Except for Shuttle tiles, artifacts that do not fit the above FSCGs are not currently eligible for direct donation under the Stevenson-Wydler Act. However, in part due to the positive feedback from demand of Shuttle tile transfers and partly due to Congressional interest in distribution of Shuttle artifacts to museums, NASA intends to add FSCG 69, "Training Aids," to the eligibility list and designate Shuttle artifacts, when used to educate and train, as eligible for SWA transfer.

More information, including request procedures and report requirements, is available in NPR 4300.1A. Besides Shuttle tiles, it is expected that this Act could provide authority for direct transfers as a gift excess items such as Shuttle payload experiment hardware and flight and training photography equipment.

Environmental Issues

Current environmental laws related to the proper disposition of assets and material hold many agencies liable for the improper use or disposal of donated assets by third party donees under the Stevenson-Wydler Act. Liability issues associated with Shuttle hardware may deter NASA from participation in the donation process or force the agency to spend extra time performing due diligence procedures verifying the eligibility and reputation of potential donees.

Donation vs. Exchange Sale

In general, and when applicable and appropriate, it may be in NASA's best long-term interest to permit the Exchange Sale (E/S) of certain Shuttle hardware. Normally, hardware candidates for an E/S only apply to line items that will be replaced by a similar line item in the new program. The term "similar" is understood to be items "designed and constructed for the same purpose." However, GSA has agreed to NASA's request that all Shuttle hardware destined for sale be sold as an exchange item.

There are pros and cons for E/S of Shuttle property. Sale of this hardware will be used to offset Constellation acquisition costs. When items are reported as "exchange/sale," screening periods for other agency reuse are limited to two days, significantly decreasing the amount of time and costs associated with storage and management of these items during disposition. Also, since this is a sales option designed to return the equivalent of fair market value back to Constellation, by definition an E/S item is not available for donation: once offered for sale, donees like museums and universities must buy the item from the Government at market value.

NASA has determined that it is in its best interest to designate for E/S any item not reserved by a requester during prescreening. The intent is to immediately offer the item for E/S as soon as it is no longer needed by SSP. This preserves NASA's responsibility to fairly and broadly offer potential artifacts to museums yet disposes of objects quickly and efficiently once they are deemed not to be useful by museums.

Other Transfer or Donation Issues Relevant to SSP

- The National Security Agency (NSA) requested the communications security (COMSEC) and cryptographic equipment developed by NSA for the Space Shuttle Program when the Shuttle Program concludes. Recognizing the sensitive nature of this equipment, NASA has agreed to transfer the equipment to the National Cryptologic Museum collection when it is declared excess by NASA. Mr. Phillip

Bounds, NASA Director for National Security, Cyber and Space, is NSA's point of contact to coordinate planning and transfer of this property.

- STS-511 and STS-107 mission debris is not considered to be SSP property. Per NASA policy, Columbia debris is not to be used for public display until and unless adequate security procedures have been put into place. Any future recovered Columbia debris remains the property of the U.S. Government.
- Center PDOs and PAOs may receive inquiries or requests for property transfers directly from local, state or Congressional lawmakers on behalf of their constituents. Such correspondences should be redirected to an appropriate center or HQ legislative affairs officer.
- Per NPR 4300.1A, paragraph 6.7.8, sale or donation of any overseas personal property to a non-U.S. public organization is possible but must comply with U.S. export control law. Such donations and sales must be initiated and approved by HQ International Relations and licensed by the U.S. Department of Commerce's Bureau of Industry and Security. Donations may be effected without cost to (a) any organization, institution or agency of any friendly foreign government or local subdivision thereof; and (b) any nonprofit scientific, literary, educational, public health, public welfare, charitable institution, any hospital or similar institution, organization or association in a friendly country, provided its activities are not adverse to the interests of the United States.

Pre-screening Shuttle Hardware for Transfer or Donation

In late 2006, NASA HQ Logistics Management Division, in conjunction with the Office of Communication Planning and the NASA Artifact Committee, gathered input from around NASA, the NASM and the National Museum of the US Air Force on Shuttle Program artifacts and personal property desired for public affairs, education, and public outreach uses. Entries became the basis of the current Shuttle potential artifact "Wish List." The intended use of this list is as a baseline of items to be offered for pre-screening by NASA technical and non-technical organizations, NASM, Federal agencies, museums, academic institutions and other qualified groups. An item committed during pre-screening would be made available at no cost to NASA as soon as the item is no longer needed by the Shuttle Program. Any item not desired during the prescreening will be disposed of through the normal disposition process under exchange sale after the hardware is declared excess.

Pre-screening will commence prior to 2010 to reduce the wave of property disposal actions at program end, allowing NASA's property disposal community additional time to identify condition and preparation costs. It is hoped a pre-screening will communicate conditions for transfer or donation and provide recipients adequate fundraising and development time. The dialogue created by advance screening may spread word of the Transition in smaller education and museum circles, sparking additional donation or sale requests.

HQ LMD, HQ's Transition Artifact Working Group, HQ Academic Affairs' Informal Education and Office of Communication Planning are working together to notify U.S.

museum consortiums, associations and education/university communities about the opportunity for prescreening.

How NASA chooses to dispose of an item – NASA transfer, GSA donation or Exchange Sale -- will determine who is eligible to request it. For example, a small, disadvantaged school may qualify for a direct NASA transfer of certain classifications of Shuttle hardware, at the exclusion of a museum in a major population center or media market. If sold through GSA, informal education groups, private entities or collectors may be able to afford to pay the full cost asked for an Exchange Sale, excluding donation of the items to a museum that has the expertise to properly care and maintain the item.

Recommendations

1. Submission of this document as the Shuttle Transition & Retirement (T&R) procedure addressing direct transfers and donations.
2. Specific guidance/clarification about the disposition of excess Challenger and Columbia debris should be provided to the Centers.
3. Frequent policy guidance should be provided to all organizations engaged in Shuttle property transition and retirement, including PDOs, contract property managers, visitor centers liaisons, exhibit managers, and Informal Education officers. Subjects addressed through 2015 might include cost sharing or cost avoidance policies and Reimbursable Space Act Agreements success stories.
4. NASA LMD with the approval of NASA General Counsel should add Training Aid and Devices (FSCG #69) to the list of Federal Supply Classification Groups eligible for direct donation under the Stevenson-Wydler Act. Furthermore, artifacts, models and mockups should be identified as acceptable under this FSCG as long as it can be demonstrated that the intended use of the item is to educate and/or train. Allowing artifacts to fall under this FSCG would not only add another outlet for distribution of excess property but also allow NASA to further assist education and research groups targeted by the Act.
5. As donees register for access to the prescreening database, sufficient information should be gathered to determine if the donee is eligible for direct transfer under the Stevenson-Wydler Act.
6. Information about Shuttle hardware transfers and donations, including disposition of artifacts, should be disseminated to the widest practical audiences to mitigate future “but-I-didn’t-know” criticism and confusion. The Shuttle Transition Working Group, GSA, HQ Public Affairs, HQ LMD, and others should develop a coordinated public engagement plan.

- Prescreening criteria (when developed) and as much information as is available about the Shuttle transfer and donation processes and timetables should be posted on appropriate NASA public Web sites as soon as possible.
- The Working Group should continue annual presentations to national or regional museum associations such as Association of Science and Technology Centers (ASTC), Smithsonian's Mutual Concerns Conference; and the American Association of Museums' annual conference.
- The Shuttle Transition Artifact Working Group should evaluate responses to Shuttle Orbiter or Engine RFIs and develop a strategy to best engage these interest groups in future dialogue.
- HQ and GSA public affairs offices should coordinate a plan to publicize the anticipated increase in disposal activity necessitated by Transition at the SOMD centers. PAO may be able to increase visibility among eligible donees of available, transferable items through a comprehensive inter-agency Agency Shuttle Transition excess property media plan.

7. A final, consolidated Agency Potential Artifacts List will be provided to the Space Shuttle Program Office and submitted to the NASA Artifacts Committee for endorsement prior to public access to the Prescreening database. The list should be the TPA, including the most current Artifact Public Display and Outreach Wish List, and other significant ground items expected to be included for prescreening.

8. NASA centers should anticipate receiving external requests for direct transfer or donation of excess property, including items that are not assigned to their center. Such requests should be directed internally to the PDO. To facilitate transactions and foster confidence in NASA's property management network, the PDO provide a written reply to the requester acknowledging receipt of the request and informing of any transfer action. This should be sent out in less than five working days and include referral contact information, if appropriate.

9. Requests from non-U.S. organizations for Shuttle artifacts or property should be forwarded to HQ LMD.

10. Any organization receiving direct inquiries or requests from local, state or Congressional lawmakers on behalf of their constituents should redirect those inquiries to their legislative affairs officer. Centers and HQ OLA will staff such requests through HQ LMD to the PDO.

11. Direct transfers and donations often require recipients to know in advance that they can execute the logistics and cover costs required to accept the hardware. Due to the unique nature of some Shuttle hardware, NASA should anticipate a higher-than-usual default rate for commitments. To mitigate this risk, the Prescreening database should indicate a second and third potential recipient willing to accept the hardware. In cases of

a renege shortly after pre-screening, the hardware should be added back into GSA's pre-screening database if a second or tertiary recipient has not been identified or cannot commit. However, if an organization defaults at time of notification and no fallback recipient has been identified, the hardware should be promptly turned over to GSA for exchange sale.

Conclusion

Standing down the venerable, iconic Shuttle program and bringing on-line its Constellation replacement without a plus-up of funding will require daily attention to the efficient removal of Shuttle property as it becomes excess. Managing this surge simultaneously with the property transfer and donation actions of the rest of NASA's programs will demand planning and policy dialogue now. Add to the mix NASA's responsibilities as charged by Congress to address the "social benefits through the donation of assets to state and local governments and non-profit organizations" and the public's expectation to preserve through artifacts evidence of America's Shuttle and human space flight successes. All together, the Shuttle property disposition task is daunting and certainly will require a more thorough understanding of Federal property transfer, donation and sale processes by stakeholders outside of NASA's logistics community.

The Shuttle property transfer and donation challenge through 2015, however, provides NASA with several significant opportunities. It may lead to innovative ways to infuse Constellation with the maximum exchange funding possible from the sale of Shuttle hardware. It may strengthen communication between the logistics, legal, public affairs, and informal education communities within NASA and enhance collaboration between NASA and NASM, GSA and the State Agencies for Surplus Property (SASPs). Perhaps most importantly, however is the potential to build on these stronger relationships and apply improved processes to NASA's day-to-day transfer and donation activities and to the next retiring NASA program.